IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 32903 of 2006(P)

PETITIONER:

M/S.KMP TIMBERS & SAW MILLS,
COLLEGE ROAD, MUVATTUPUZHA, REPRESENTED
BY ITS MANAGING PARTNER, K.M.PAREETH.

BY ADV. SRI.BOBBY JOHN
SRI.P.N.DAMODARAN NAMBOODIRI

RESPONDENTS:

1. THE COMMERCIAL TAX OFFICER,
MUVATTUPUZHA.

2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, MATTANCHERY.

3. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI JULIAN XAVIER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE NOTICE DTD. 21/11/06 ISSUED BY THE IST RESPONDENT TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE REPLY DTD. 5/12/2006 SUBMITTED BY THE PETITIONER BEFORE THE IST RESPONDENT.

EXT.P3 TRUE COPY OF THE PENALTY ORDER DTD. 24/2/06 PASSED BY THE INTELLIGENCE OFFICER (IB), ERNAKULAM.

EXT.P4 TRUE COPY OF THE REVISION APPLICATION PENDING BEFORE THE 2ND RESPONDENT.

EXT.P5 TRUE COPY OF THE STAY ORDER DTD. 30/6/2006 PASSED BY THE 2ND RESPONDENT.

EXT.P6 TRUE COPY OF THE INTERIM ORDER DTD. 12/10/2006 IN W.P.(C).NO.26912/2006.

EXT.P7 TRUE COPY OF THE JUDGMENT DTD. 2/11/2006 IN WP(C).NO.26912/2006.

P.R.RAMAN,J.

W.P.(C).NO.32903 OF 2006

Dated this the 17th day of January, 2007

JUDGMENT

Petitioner challenges Ext.P1 notice issued under Section 16(10) of the K.V.A.T. Act,1963. The reason for the proposal to cancel the registration is that the petitioner has not even remitted an amount of Rs.5,00,000/- directed to be paid by him as per interim order passed by this Court in W.P.(C).No.26912/200 as evidenced by Ext.P6 order. However the petitioner has submitted Ext.P2 detailed reply. It is contended now before me that except on the grounds stated in Rule 18 of the Kerala Value Added Tax Rules, 2005, no registration be cancelled and the reason stated in the notice proposing cancellation of the registration is not one covered by any of the enumerated reasons for which registration

could be cancelled. He also submits that the non-payment of tax or penalty is not a reason to cancel the registration. However, it is not necessary for me to go into the merits of the contention raised. Ext.P1 is only a notice proposing cancellation of the registration, against which the petitioner has preferred Ext.P2 reply. A counter affidavit is filed in this case wherein it is averred that the petitioner is in huge arrears of due to the tune of Rs.55,68,380/- and interest for the year 2002-2003 as a result of the penalty imposed. He is also a chronic defaulter and failed even to comply with the direction of this Court. However, since the petitioner has already submitted a reply as stated above, it is for the authority first to consider such reply, applying his mind and pass appropriate orders with reference to the provisions of

law.

In such circumstances, there will be65 a direction to the Commercial Tax Officer, Muvattupuzha to consider Ext.P2 and dispose of the same in accordance with law, after affording an opportunity of being heard to the petitioner.

Writ Petition is disposed of subject to the above observation.

P.R.RAMAN,
Judge.

kcv.